IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1166 OF 2007
IN
CRIMINAL APPEAL NO. 1049 OF 2007

Sadashiv Rajaram Pawar ..Applicant

Vs.

The State of Maharashtra ..Respondent

Mr. S.D. Inamdarshinde for applicant.
Mr. S.V. Gajare, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : October 18, 2007.

P.C.:

1. Heard Mr. Inamdarshinde the learned counsel for the applicant and Ms. Gajare the learned APP for State.

2. This is an application for bail during the pendency of Criminal Appeal No. 1049 of 2007. The applicant was convicted for the offence punishable under Sections 306 and 417 of IPC and has been sentenced to suffer RI for three years for the first

office with a fine of Rs.25,000/- and RI for one year with a fine of Rs.10,000/- for the second offence in Sessions Case No. 587 of 1999 decided by the learned Additional Sessions Judge, Gr. Mumbai on 7/9/2007.

3. As per the prosecution story the applicant and the victim Archana were in love and the love affair had started in June 1994. On 19/1/1999 they were picked up at about 4.30 a.m. and taken to the Park Site Police Station accompanied by her brothers and at about 9.30 a.m. on the same day some social workers collected at the said police station. Both of them were subjected to the medical examination and there was no sign of any sexual intercourse but N.C. No. 169 of 1999 was recorded on the same day and at about 7.30 p.m. the girl went to Dombivali accompanied by her sister. On the next day i.e. on 20/1/1999 an application for permission under Section 155 (2) of Cr.P.C. to investigate into the N.C. was rejected by the learned Metropolitan Magistrate, 31st Court, Mumbai. On the second day i.e. on 21/1/1999 at about 8.30 a.m. the girl committed suicide by setting herself ablaze and at 9 a.m. her dying declaration

was recorded by the S.E.O. and Police Officer. Two days later she died in the hospital i.e. on 23/1/1999. It is prima facie a case where the victim committed suicide was not in the company of the applicant and they were not married. I am, therefore, satisfied that the applicant deserves to be enlarged on bail during the pendency of the appeal and more so when he was on bail during trial.

4. Hence, the application is allowed and the order of sentence is hereby suspended under Section 389 of Cr.P.C. The applicant is directed to be released on bail, if not required in any other case, during the pendency of the appeal on the same terms as before the trial court but on fresh bonds.

(B.H. Marlapalle,J.)